

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF NEW YORK

3 -----
4 UNITED STATES OF AMERICA,

5 -versus-

15-CR-261

6 RYAN ROOT.
7 -----

8 TRANSCRIPT OF CHANGE OF PLEA

9 held in and for the United States District Court, Northern
10 District of New York, at the Federal Building, 15 Henry St.,
11 Binghamton, New York, on November 30, 2016, before
12 the HON. THOMAS J. McAVOY, Senior United States District
13 Court Judge, PRESIDING, via VIDEO-CONFERENCE.
14

15 APPEARANCES:

16 FOR THE GOVERNMENT:

17 UNITED STATES ATTORNEY'S OFFICE

18 BY: SOLOMON SHINEROCK, AUSA

19 Albany, New York
20

21 FOR THE DEFENDANT:

22 BATTISTI & GARZO

23 FRANCIS P. BATTISTA, ESQ.

24 Binghamton, New York
25

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1 THE CLERK: United States of America versus Ryan T.
2 Root, 15-CR-261. May I have the appearance for the
3 government?

4 MR. SHINEROCK: Solomon Shinerock on behalf of the
5 United States.

6 THE COURT: Good afternoon, Mr. Shinerock.

7 THE CLERK: On behalf of the defendant, please.

8 MR. BATTISTI: Paul Battisti on behalf of Mr. Root.

9 THE COURT: Good afternoon, Mr. Battisti; good
10 afternoon, Mr. Root.

11 THE DEFENDANT: Good afternoon, your Honor.

12 THE CLERK: Mr. Root, will you raise your right
13 hand, please.

14 (Defendant was duly sworn)

15 THE COURT: All right. Mr. Battisti, as I
16 understand it your client, Mr. Root, wishes to change his
17 plea and enter a plea of guilty to a one, to counts one and
18 two of indictment 15-CR-261 and admit to the allegations in
19 the forfeiture clause.

20 Is that right?

21 MR. BATTISTI: That's correct, your Honor.

22 THE COURT: Is that your understanding,
23 Mr. Shinerock?

24 MR. SHINEROCK: It is.

25 THE COURT: All right. Would you like to have the

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1 forfeiture allegations read or would you like to waive the
2 reading?

3 MR. BATTISTI: We do waive the reading, your Honor.

4 THE COURT: All right. Mr. Root, in a few moments
5 I'm going to be asking you some questions in order to learn
6 if you're pleading guilty freely and voluntarily with an
7 understanding of the charge and the consequences. I'm going
8 to be asking you if you're under the influence of any
9 substances such as alcohol, narcotics or medication which
10 would in any way interfere with your ability to understand
11 the charges and the consequences. I'm going to be asking you
12 if anybody has made any promises of leniency to you to induce
13 you to plead guilty, except what's in your plea agreement, or
14 if anybody has threatened you with the use of force to induce
15 you to plead guilty.

16 I'm going to be asking you something about
17 what you did in this case so the Court can establish that
18 there's a factual basis for accepting and entering your plea
19 and I'm going to ask you some questions about your personal
20 history and background and I want to advise you if your
21 answers are not truthful, they may later be used against you
22 in a prosecution for perjury or for making a false statement.

23 Do you understand that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Okay. Before I ask you those questions

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1 and before the clerk takes your plea, I have to advise you of
2 certain rights that you have in connection with this matter.
3 First of all, you have the right to persist in your original
4 plea of not guilty as to all counts in the indictment. You
5 have the right to a speedy and a public trial by an impartial
6 jury of 12 persons or to a trial by the Court alone if you
7 were to waive or give up your right to a jury trial.

8 Upon such a trial you would be presumed to be
9 innocent under the law and the burden would be upon the
10 government to establish your guilt beyond a reasonable doubt
11 to the satisfaction of all 12 jurors or to the satisfaction
12 of the Court if you waived a jury trial.

13 At such a trial you'd have the right to the
14 assistance of an attorney. You'd have the right to confront,
15 that is, to see and hear anyone testifying against you.
16 You'd have the right to remain silent or to testify in your
17 own behalf but you couldn't be compelled to incriminate
18 yourself or to testify at all and your silence couldn't be
19 held against you in any way nor could any inferences of guilt
20 be drawn against if you decided not to testify.

21 You'd have the right to use the subpoena or
22 other process of the Court, to compel witnesses to attend the
23 trial and testify and to contain any documentary or other
24 evidence you might wish to offer in your own defense.

25 Now, if the Court accepts your plea of guilty

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1 here this afternoon, you're going to waive or give up all
2 those rights, there won't be a trial of any kind and the
3 Court will have the same power to sentence you as if you had
4 been found guilty after a trial on the counts to which you're
5 pleading.

6 Now, have you talked to Mr. Battisti about the
7 meaning of the charges made against you in count one and
8 count two?

9 THE DEFENDANT: Oh, yes. Yes, I have.

10 THE COURT: And did he explain to you in count one
11 you're being charged with having been a member of a
12 conspiracy whose object it was to possess with intent to
13 distribute and to distribute a controlled substance, anabolic
14 steroids.

15 Do you understand that charge?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: And count two is a money laundering
18 charge which charges you with having conspired to transport,
19 transmit and transfer and attempt to do the same, monetary
20 instruments from a place in the United States through a place
21 outside the United States, with the intent to promote and
22 carry on the conspiracy that I just talked to you about.

23 Do you understand that charge?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Did Mr. Battisti talk to you about the

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1 potential sentences or the consequences of pleading guilty?

2 MR. BATTISTI: Yes, your Honor.

3 THE COURT: Do you understand those?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: Did he also talk to you about your
6 chances of winning or losing if you went to trial, trial
7 strategy and defenses?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Lastly, I want to advise you that your
10 plea of guilty constitutes a waiver or giving up of your
11 right against self-incrimination and I want to warn you not
12 to plead guilty unless you're, in fact, guilty of the charges
13 made against you in counts one and two of the indictment.

14 Do you still wish to plead guilty?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Madam clerk.

17 THE CLERK: Indictment 15-CR-261, the grand jury
18 charges count one: From in or around January 2011, through
19 on or about September 11, 2015, in Broome County, in the
20 Northern District of New York and elsewhere, the defendant,
21 Ryan T. Root, and other defendants named therein, conspired
22 with others to knowingly and intentionally possess with
23 intent to distribute and to distribute controlled substances,
24 in violation of Title 21, United States Code, Sections
25 841(a)(1) and 846. As to all defendants, that violation

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1 involved anabolic steroids, Schedule III controlled
2 substances, in violation of Title 21, United States Code,
3 Section 841(b)(1)(E).

4 Mr. Root, how do you plead to count one of
5 indictment 15-CR-261?

6 THE DEFENDANT: Guilty.

7 THE CLERK: Count two, from in or around January
8 2011 through on or about September 11, 2015, in Broome
9 County, in the Northern District of New York and elsewhere,
10 the defendant, Ryan Root, and other defendants named
11 therein, and others, conspired to transport, transmit and
12 transfer and attempt to transport, transmit and transfer one
13 or more monetary instruments and funds from a place in the
14 United States to and through a place outside the United
15 States with the intent to promote the carrying on of
16 specified unlawful activity; that is, conspiracy to possess
17 with intent to distribute controlled substances, in violation
18 of Title 21, United States Code, Sections 846 and 841(a), in
19 violation of Title 18, United States Code, Section
20 1956(a)(2)(A). All, in violation of Title 18, United States
21 Code Section, 1956(h).

22 Mr. Root, how do you plead to count two of
23 indictment 15-CR-261?

24 THE DEFENDANT: Guilty, ma'am.

25 THE CLERK: And, Mr. Root, do you admit to the

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1 forfeiture allegation contained and set forth in indictment
2 15-CR-261?

3 THE DEFENDANT: Yes.

4 THE COURT: All right. Mr. Root, would you state
5 your full name for us once again?

6 THE DEFENDANT: Ryan Timothy Root.

7 THE COURT: How old are you?

8 THE DEFENDANT: Thirty-seven.

9 THE COURT: What's your date of birth?

10 THE DEFENDANT: 12/20/78.

11 THE COURT: Are you married?

12 THE DEFENDANT: No, your Honor.

13 THE COURT: Do you have any children?

14 THE DEFENDANT: No, your Honor.

15 THE COURT: How far did you go in school?

16 THE DEFENDANT: I went to -- my bachelor's degree
17 in biochemistry.

18 THE COURT: Where did you get that?

19 THE DEFENDANT: Binghamton University.

20 THE COURT: And what kind of work have you done
21 over the years?

22 THE DEFENDANT: I worked in the emergency room at
23 Lourdes here in Binghamton. I've been -- I worked for a
24 plumber. I was a plumber for a while in my early 20s while I
25 was going to school and then now I own my own business.

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1 THE COURT: Have you had any alcohol or narcotics
2 in the past 48 hours?

3 THE DEFENDANT: No, your Honor.

4 THE COURT: Are you currently or have you recently
5 been under the care of any physician, psychiatrist or other
6 medical care provider for any physical or mental condition?

7 THE DEFENDANT: No, your Honor.

8 THE COURT: Are you taking any medication at the
9 present time?

10 THE DEFENDANT: I'm taking testosterone.
11 Prescription.

12 THE COURT: How much do you take; how many
13 milligrams a day?

14 THE DEFENDANT: I take one milliliter a week.

15 THE COURT: Milliliter a week, right?

16 THE DEFENDANT: Yes.

17 THE COURT: And is that in any way interfering with
18 your ability to understand the charges and the consequences?

19 THE DEFENDANT: No, sir.

20 THE COURT: Okay. Has Mr. Battisti advised you of
21 your rights?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Is there anything you'd like to ask me
24 about your rights this afternoon?

25 THE DEFENDANT: No, your Honor.

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1 THE COURT: Are you satisfied with what
2 Mr. Battisti has done for you so far?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Has Mr. Battisti or Mr. Shinerock or
5 any public official or anyone made any promises to you that
6 you'd be treated leniently in exchange for your plea of
7 guilty, except what's in your plea agreement?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: Has anybody threatened you with the use
10 of force to induce you to plead guilty?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: Are you pleading guilty freely and
13 voluntarily?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Are you currently on probation or
16 parole from any other institution?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: All right. Mr. Shinerock, does the
19 government have sufficient evidence to prove Mr. Root guilty
20 beyond a reasonable doubt of the charges in count one and two
21 of the indictment?

22 MR. SHINEROCK: We do, your Honor.

23 THE COURT: What would you prove if we went to
24 trial?

25 MR. SHINEROCK: In proving count one the government

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1 would be required to show beyond a reasonable doubt that two
2 or more persons conspired to knowingly or intentionally
3 distribute or possess with intent to distribute a controlled
4 substance.

5 Second, that the defendant joined that
6 conspiracy either at its inception or some time during its
7 existence knowing its purpose and intending to help it
8 succeed.

9 And finally, that conspiracy involved the
10 distribution or possession with intent to distribute anabolic
11 steroids, a Schedule III controlled substance.

12 In establishing a conviction on count two the
13 government would be required to show, first, that two or more
14 persons conspired to transport, transmit and transfer and
15 attempt to transport, transmit and transfer one or more
16 monetary instruments and funds from a place in the United
17 States to and through a place outside the United States, with
18 the intent to promote the carrying on of specified unlawful
19 activity; that is, the conspiracy to possess with intent to
20 distribute controlled substances as charged in count one.

21 Second, the government would have to show that
22 the defendant joined that conspiracy either at its inception
23 or some time during its existence knowing its purpose and
24 intending to help it succeed.

25 In establishing these elements the government

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1 would show that between January 2011 and September 2015, in
2 the Northern District of New York, in the district of New
3 Jersey and elsewhere, the defendant conspired with nine
4 co-defendants charged in count one and others to possess with
5 intent to distribute and distribute 60,000 units or more of
6 anabolic steroids.

7 As part of this conspiracy the defendant would
8 arrange for the shipment to himself or other co-conspirators
9 acting on his behalf of distribution amounts of anabolic
10 steroids from different sources of supply in China and
11 elsewhere throughout the world. The defendant would ship or
12 direct other co-conspirators to ship the anabolic steroids to
13 various parts of the United States, including to the Northern
14 District of New York.

15 The defendant admits that as a result of his
16 participation in the anabolic steroid conspiracy as charged
17 in count one of the indictment, he is personally responsible
18 for the possession with intent to distribute more than 60,000
19 units of anabolic steroids.

20 We'd also show that it was further a part of
21 the conspiracy that to obtain the anabolic steroids shipped
22 to him or to his co-conspirators, that the defendant wired
23 funds or caused other co-conspirators to wire funds from the
24 Northern District of New York and elsewhere in the United
25 States to counter parties in China using commercially

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1 available wire transfer services, including Western Union.
2 The defendant knew that the funds he and other
3 co-conspirators wired to counter parties in China were used
4 to promote the carrying on of the conspiracy to possess with
5 intent to distribute anabolic steroids. And as a result of
6 his participation in the international money laundering
7 conspiracy as charged in count two, the defendant we would
8 show he is responsible for \$252,818.00 in that he personally
9 laundered that amount and the laundering of the amount by
10 others was reasonably foreseeable to him.

11 THE COURT: All right. Mr. Root, did you hear and
12 understand what Mr. Shinerock said about your conduct in this
13 case?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Is that what you did?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Is that your understanding,
18 Mr. Battisti?

19 MR. BATTISTI: I'm sorry, Judge, you broke up there
20 for a minute. What was that?

21 THE COURT: Is it your understanding that what
22 Mr. Shinerock said about your client's conduct was, in fact,
23 what he did in this case?

24 MR. BATTISTI: That's correct, your Honor.

25 THE COURT: All right. Mr. Shinerock, would you

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1 please advise the defendant and the Court what the maximum or
2 any minimum penalty would be for the counts involved?

3 MR. SHINEROCK: On count one the defendant faces a
4 maximum penalty of ten years and on count two the maximum
5 penalty that could be imposed is 20 years of incarceration.
6 There's no mandatory minimum term of imprisonment in this
7 case. There's a maximum statutory fine of \$500,000 on count
8 one. Count two carries a maximum statutory fine of the
9 greater of \$500,000 or two times the amount of money involved
10 in the money laundering conspiracy, which in this case is
11 just slightly higher than the \$500,000.

12 The defendant faces a term of supervised
13 release that must be imposed somewhere between two years and
14 life. A violation of the terms of supervised release could
15 result in a term of additional incarceration for as long as
16 two years.

17 There's a special assessment in this case of
18 \$100 for each count of conviction and there's a forfeiture
19 allegation to which the defendant has pled as part of the
20 plea agreement in the amount of \$2.5 million.

21 If convicted the defendant faces collateral
22 consequences, including the loss of the right to vote, the
23 loss of the right to hold and bear arms, and the loss of the
24 right to hold certain professional licenses, as well as other
25 collateral consequences that he should discuss with his

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1 attorney and some of which are indicated in paragraph F of
2 the plea agreement.

3 THE COURT: All right. Mr. Root, did you sign your
4 plea agreement in this case?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Let me ask you this first before I get
7 to that. Getting ahead of myself.

8 The Court also, in addition to what
9 Mr. Shinerock told you, has to advise you that under and
10 pursuant to certain Sentencing Guidelines adopted by the
11 United States that used to be mandatory but are no longer
12 mandatory but still must be considered by the Court in the
13 sentencing process, that my discretion in sentencing you is
14 thereby affected and the Court must enforce the law as it
15 stands today but sometimes the Court can sentence you above
16 the guidelines or below the guidelines or even outside of the
17 guidelines depending upon the facts, the circumstances and
18 the law that's presented to the Court at or about the time of
19 sentencing.

20 So, do you understand what I just said about
21 the sentencing guidelines?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Okay. Did you sign your plea agreement
24 in this case?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: Did you talk it over with your attorney
2 before you signed it?

3 THE DEFENDANT: Yes, I did, your Honor.

4 THE COURT: Did he explain it to you?

5 THE DEFENDANT: Yes, he did, your Honor.

6 THE COURT: Did you understand it when you signed
7 it?

8 THE DEFENDANT: Yes, I did, your Honor.

9 THE COURT: Did you sign it voluntarily?

10 THE DEFENDANT: Yes, I did, your Honor.

11 THE COURT: In your plea agreement on page seven at
12 paragraph seven you've indicated to the Court that after
13 consultation with Mr. Batisti that both you and he agree that
14 it was -- that it's appropriate for you to waive or give up
15 certain appeal rights and in this particular case is the
16 right to appeal or collaterally attack your conviction
17 arising out of this proceeding today and also the right to
18 appeal or collaterally attack any sentence of 87 months or
19 less while retaining to yourself the right to appeal a higher
20 sentence.

21 So, did you understand what you were doing
22 when you agreed to give up those appeal rights?

23 THE DEFENDANT: Yes, I did, your Honor.

24 THE COURT: Did you do that voluntarily?

25 THE DEFENDANT: Yes, I did, your Honor.

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1 THE COURT: Mr. Battisti, did you sign the plea
2 agreement on behalf of Mr. Root knowingly and voluntarily?

3 MR. BATTISTI: I did, your Honor.

4 THE COURT: Mr. Shinerock, did you sign on behalf
5 of the government knowingly and voluntarily?

6 MR. SHINEROCK: I did.

7 THE COURT: All right. Mr. Root, the Court also
8 has to advise you that it's not bound by any sentencing
9 recommendation contained in the plea agreement and you'll
10 have no right to withdraw your plea of guilty if the Court
11 decides not to enforce any voluntary agreement as part of the
12 plea agreement. So, if the Court makes that decision and
13 will make the decision after it receives the Presentence
14 Investigation Report and any other materials that are sent to
15 the Court that bear on sentencing.

16 So, do you understand what I just said about
17 the Court's ability to reject any non-binding recommendation
18 in the plea agreement?

19 THE DEFENDANT: Yes, I do, your Honor.

20 THE COURT: Now that you've heard about the
21 potential statutory sentence and the guidelines, do you still
22 wish to plead guilty?

23 THE DEFENDANT: Yes, I do, your Honor.

24 THE COURT: Are you pleading guilty because you're
25 guilty?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Mr. Battisti, would you state your
3 background and experience in handling matters of this kind?

4 MR. BATTISTI: Yes, your Honor. For 12 years I've
5 been licensed to practice law in the State of New York and
6 for roughly six years I've been practicing in federal court
7 handling similar cases, similar facts, similar circumstances.
8 Surrounding this case I reviewed all the discovery. I've had
9 meetings both face to face and by phone with the federal
10 prosecutor. I've met with my client face to face and by way
11 of phone. As of today's date I have roughly 45 hours into
12 this case.

13 THE COURT: All right. Have you had what you
14 believe to be adequate discovery of the government's case?

15 MR. BATTISTI: We have.

16 THE COURT: Have you advised Mr. Root of his
17 rights, the nature of the charge and the consequences of
18 pleading guilty?

19 MR. BATTISTI: We have.

20 THE COURT: Except what's contained in the plea
21 agreement, have you made any promises or threats to induce
22 him to plead guilty?

23 MR. BATTISTI: I have not.

24 THE COURT: Are you satisfied that he's pleading
25 guilty freely and voluntarily with an understanding of the

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1 charges and the consequences?

2 MR. BATTISTI: I do.

3 THE COURT: Do you know of any defenses that he has
4 that would prevail if the case went to trial?

5 MR. BATTISTI: I do not.

6 THE COURT: Do you know of any reason why he should
7 not plead guilty?

8 MR. BATTISTI: I do not.

9 THE COURT: Based on the foregoing the Court will
10 find that Mr. Root pled guilty freely and voluntarily; that
11 he is and was competent to enter such a plea; that he
12 understands the charges against him and the consequences of
13 pleading guilty; that there is and was a basis in fact for
14 the Court accepting and entering the plea.

15 The Court will direct the probation department
16 to prepare and submit a presentence report.

17 The Court will set sentencing for March 13,
18 2017 at 3 PM in Albany, New York.

19 Is there anything further from the government?

20 MR. SHINEROCK: Nothing further. Thank you.

21 THE COURT: How about the defendant's counsel?

22 MR. BATTISTI: Nothing further, Judge. Thank you
23 very much.

24 THE DEFENDANT: Thank you, your Honor.

25 THE COURT: What's the bail situation?

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1 MR. BATTISTI: Judge, he was released pretrial and
2 a resident of New Jersey. There's been no violations. He
3 appeared today voluntarily. We'd request the Court continue
4 that pending sentencing.

5 MR. SHINEROCK: No objection to that request.

6 THE COURT: All right. The Court will release
7 Mr. Root on the same terms and conditions to his New Jersey
8 probation supervisors.

9 Anything further?

10 MR. SHINEROCK: Paul, if you could, just dropoff
11 the signed plea agreement page with Kathy Torres in the
12 US Attorney's Office there and she'll get it to me.

13 MR. BATTISTI: Will do. Okay. Thank you.

14 THE COURT: Court stands adjourned in this matter.

15 (Court stands adjourned)
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CERTIFICATE OF OFFICIAL REPORTER

I, VICKY A. THELEMAN, Federal Official
Realtime Court Reporter, in and for the United
States District Court for the Northern District of
New York, do hereby certify that pursuant to Section
753, Title 28 United States Code that the foregoing
is a true and correct transcript of the
stenographically reported proceedings held in the
above-entitled matter and that the transcript page
format is in conformance with the regulations of the
Judicial Conference of the United States.

/s/ Vicky A. Theleman

VICKY A. THELEMAN, RPR, CRR

US District Court - NDNY

Dated: October 25, 2018.